

Committee on Utilities & Telecommunications

**Tuesday, January 10, 2006
9:45 am – 11:45 am
404 HOB**



Florida House of Representatives

Commerce Council
Utilities & Telecommunications Committee

Allan Bense
Speaker

Kenneth W. "Ken" Littlefield
Committee Chairman

Agenda

Utilities and Telecommunications Committee
404 House Office Building
January 10, 2006
9:45 a.m. – 11:45 a.m.

- I. Welcome and Opening Remarks by the Chairman
- II. Roll Call
- III. HB 45: Relating to False or Misleading Electronic Mail (Porth)
- IV. HB 249: Relating to Florida 211 Network (Jennings)
- V. Closing Remarks by the Chairman
- VI. Adjourn

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

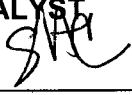

BILL #: HB 45

False or Misleading Electronic Mail

SPONSOR(S): Porth

TIED BILLS:

IDEN./SIM. BILLS: SB 80

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Utilities & Telecommunications Committee</u>	_____	Cater 	Holt 
2) <u>Criminal Justice Committee</u>	_____	_____	_____
3) <u>Criminal Justice Appropriations Committee</u>	_____	_____	_____
4) <u>Commerce Council</u>	_____	_____	_____
5) <u>_____</u>	_____	_____	_____

SUMMARY ANALYSIS

The bill amends the Electronic Mail Communications Act (Act) to provide criminal penalties for sending unsolicited commercial electronic mail messages. The bill does the following:

- Provides immunity to service providers whose networks are used to transport, transmit, or retransmit a message that violates the Act.
- Provides that remedies and criminal penalties under the Act are in addition to remedies and criminal penalties otherwise available under federal or state law.
- Provides that a violation of the act is a misdemeanor of the first degree except under certain circumstances.
- Provides that under certain circumstances, a violation is a felony in the third degree.
- Provides criminal penalties for criminal violations.

The fiscal impact of the bill is indeterminate at this time due to the unknown number of cases that may be prosecuted.

This act shall take effect July 1, 2006, and shall apply to violations committed on or after that date.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government/Promote Personal Responsibility-The bill creates criminal penalties for sending false or misleading electronic mail.

B. EFFECT OF PROPOSED CHANGES:

Background

Federal Legislation

In 2003, Congress passed the "Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003" or the "CAN-SPAM Act of 2003." The law took effect January 1, 2004.¹

The federal "CAN-SPAM" act provides that if the activity is in or affects interstate or foreign commerce, it is unlawful to knowingly:

- Access a protected computer without authorization, and intentionally initiate the transmission of multiple commercial electronic mail messages from or through the computer.
- Use a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages.
- Materially falsify header information in multiple commercial electronic mail messages and intentionally initiate the transmission of such messages.
- Register, using information that materially falsifies the identity of the actual registrant, for five or more electronic mail accounts or online user accounts or two or more domain names, and intentionally initiate the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names.
- Falsely represent oneself to be the registrant or the legitimate successor in interest to the registrant of five or more Internet Protocol addresses, and intentionally initiate the transmission of multiple commercial electronic mail messages from such addresses.

The CAN-SPAM act specifies the penalties for a violation which may include a fine, imprisonment of up to five years, or both. Additionally, the court may order forfeiture of any property constituting or traceable to gross proceeds obtained from the offense or any equipment used or intended to be used to commit the offense.

State Legislation

In 2004, the Legislature passed The Electronic Mail Communications Act (Act).² The Act prohibits commercial electronic mail messages that falsely identify the origin or identity of the sender or contain false or misleading information in the subject line. Additionally, the Act in s. 338.603 provides that a person may not:

- Initiate the transmission of an unsolicited commercial electronic mail message from a computer located in this state or to an electronic mail address that is held by a resident of this state which:
 - Uses a third party's Internet domain name without permission of the third party;

¹ S.B. 877, 108th Cong., 1st Session (2003). (P.L. 108-187).

² Ch. 2004-233, L.O.F. This created sections 668.60 through 668.6075, F.S.

- Contains falsified or missing routing information or otherwise misrepresents, falsifies, or obscures any information in identifying the point of origin or the transmission path of the unsolicited commercial electronic mail message; or
 - Contains false or misleading information in the subject line.
- Assist in the transmission of an unsolicited commercial electronic mail message when the person providing the assistance knows, or has reason to know, that the initiator of the commercial electronic mail message is engaged in or intends to engage in a practice that violates this section.
- Distribute software or any other system designed to falsify missing routing information identifying the point of origin or the transmission path of the commercial electronic mail message.

Summarily, the Act also:

- Authorizes the Department of Legal Affairs to bring an action for damages, or to seek declaratory or injunctive relief, or to impose a civil penalty for a violation of the prohibited activities outlined in the Act;
- Creates a cause of action for a person who receives an unsolicited commercial electronic mail message in violation of the Act's provisions;
- provides that a violation of the Act's prohibited activities is also a violation of the Florida Deceptive and Unfair Trade Practices Act;
- Provides an exemption from liability for certain commercial electronic mail providers and wireless providers who transmit commercial electronic mail, and allows an interactive computer service provider to block transmission of a commercial electronic message it believes may be sent in violation of the Act's provisions;
- Provides that prevailing plaintiffs are entitled to:
 - An injunction to enjoin future violations of s. 338.603, F.S.
 - Compensatory damages equal to actual damages to have resulted from the initiation of the unsolicited commercial electronic mail message or liquidated damages of \$500 for each unsolicited commercial electronic mail message that violates s. 668.603, F.S.
 - Plaintiff's attorney's fees and other reasonably incurred litigation costs.
- Provides that any person outside this state who initiates or assists in the transmission of a commercial electronic mail message received in this state and who knows, or should have known, that the commercial electronic mail message will be received in this state, submits to the jurisdiction of this state;
- Provides that the Act's provisions do not interfere with the confidential status of certain information relating to intelligence or investigative information; and
- Provides that an action must be commenced within 4 years following the date of any prohibited activity.

Section 668.6075, F.S., provides that a violation of s. 668.603 shall be considered an unfair and deceptive trade practice within the meaning of part II of ch. 501, F.S., and that in addition to any remedies or penalties set forth in ch. 501, F.S., a violator is subject to the penalties and remedies provided in this part. The remedies in this part are in addition to the remedies otherwise available for the same conduct under federal or state law.

According to the Department of Legal Affairs, two cases under the current Act were litigated in 2005, and at this time, there are other active investigations. Other complaints have been filed, but the Department of Legal Affairs has not been able to determine who sent the message; therefore, has not been able to take further action.

Proposed Legislation

This bill amends the Electronic Mail Communications Act (Act) by creating criminal penalties for sending false or misleading electronic mail. Currently, there are only civil remedies for sending false or misleading electronic mail.

The bill amends s. 668.606, F.S., to provide that the Act does not create a cause of action or provide for criminal charges against service providers whose equipment is used to transport, handle, or retransmit a commercial electronic mail message that violates the prohibited activities in s. 668.603, F.S.

The bill provides that the remedies and criminal penalties of the Act are in addition to the remedies and criminal penalties otherwise available under federal or state law, such as the remedies under the unfair and deceptive trade practices act in part II of ch. 501, F.S.

The bill creates s. 668.608, F.S., which provides for criminal violations of the Act. Except as provided, a violation of s. 668.603, F.S., commits a misdemeanor in the first degree, which is punishable by a fine of up to \$1,000³ or imprisonment of up to one year.⁴ A violation of s. 668.603, F.S., is a felony in the third degree if:

- The volume of commercial electronic mail messages transmitted by the person exceeds 10,000 attempted recipients in any 24-hour period;
- The volume of commercial electronic mail messages transmitted by the person exceeds 100,000 attempted recipients in any 30-day period;
- The volume of commercial electronic messages transmitted by the person exceeds 1 million attempted recipients in any 1-year period;
- The revenue generated from a specific commercial electronic mail message transmitted by the person exceeds \$1,000;
- The total revenue generated from all commercial electronic mail messages transmitted by the person to any electronic mail message service provider or its subscribers exceed \$50,000;
- The person knowingly hires, employs, uses, or permits any minor to assist in the transmission of a commercial electronic mail message in violation of s. 668.603, F.S.;
- The person commits a violation within 5 years of a previous conviction under this section.

The felony in the third degree is punishable by a fine of up to \$5,000,⁵ or imprisonment of up to five years.⁶ Felony violations may also be punishable under the provisions for habitual felony offenders contained in s. 775.084, F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 668.606(2), F.S., relating to civil penalties.

Section 2: Amends s. 338.6075, relating to unfair and deceptive trade practices and renumbers s. 338.6075(2), F.S., as s. 668.610, F.S., relating to cumulative remedies.

Section 3: Creates s. 668.608, F.S., relating to criminal violations.

Section 4: This act shall take effect July 1, 2006, and shall apply to violations committed on or after that date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

³ S. 775.083(1)(d), F.S.

⁴ S. 775.082(4)(a), F.S.

⁵ S. 775.083(1)(c), F.S.

⁶ S. 775.082(3)(d), F.S.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. The bill provides for fines as a penalty for a criminal violation of the Act. It is not known how many cases may be brought under this statute; therefore the revenue impact cannot be determined at this time.

2. Expenditures:

Indeterminate. There will be some expenses involved in investigating and prosecuting violations of this statute. The bill also provides for imprisonment as a penalty for a criminal violation of the act. It is not known how many cases may be brought under this statute; therefore, the expenses cannot be determined at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Comments

When ch. 2004-233, L.O.F., passed, to create the Electronic Mail Communications Act. That law created civil remedies for the transmission of unsolicited commercial electronic mail. The bill adds criminal penalties to the current civil remedies. However, it is unclear at this time whether or not the addition of criminal penalties will bring about issues with either the First Amendment or Commerce Clause of the United States Constitution.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled

2 An act relating to false or misleading electronic mail;
3 amending s. 668.606, F.S.; providing an exemption from
4 criminal liability for certain carriers whose equipment
5 transmits commercial electronic mail messages that violate
6 s. 668.603, F.S., which prohibits specified actions
7 relating to transmission of false or misleading
8 unsolicited commercial electronic mail messages; amending
9 s. 668.6075, F.S., and renumbering and amending subsection
10 (2) thereof as s. 668.610, F.S.; providing that remedies
11 and penalties under the Electronic Mail Communications Act
12 are cumulative; creating s. 668.608, F.S.; providing
13 criminal penalties for violations of s. 668.603, F.S.,
14 which prohibits specified actions relating to transmission
15 of false or misleading unsolicited commercial electronic
16 mail messages; providing applicability; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsection (2) of section 668.606, Florida
22 Statutes, is amended to read:

23 668.606 Civil remedies; service provider immunity.--

24 (2) This part does not create a cause of action or provide
25 for criminal charges against an interactive computer service,
26 telephone company, or cable provider whose equipment is used to
27 transport, handle, or retransmit a commercial electronic mail
28 message that violates s. 668.603.

29 Section 2. Section 668.6075, Florida Statutes, is amended,
30 and subsection (2) of that section is renumbered as section
31 668.610, Florida Statutes, and amended to read:

32 668.6075 Unfair and deceptive trade practices ~~Violations~~
33 ~~of s. 668.603.--~~

34 ~~(1)~~ A violation of s. 668.603 shall be deemed an unfair
35 and deceptive trade practice within the meaning of part II of
36 chapter 501. In addition to any remedies or penalties set forth
37 in that part, a violator shall be subject to the penalties and
38 remedies provided for in this part.

39 668.610 Cumulative remedies.--

40 ~~(2)~~ The remedies and criminal penalties of this part are
41 in addition to remedies and criminal penalties otherwise
42 available for the same conduct under federal or state law.

43 Section 3. Section 668.608, Florida Statutes, is created
44 to read:

45 668.608 Criminal violations.--

46 (1) Except as provided in subsection (2), any person who
47 violates s. 668.603 commits a misdemeanor of the first degree,
48 punishable as provided in s. 775.082 or s. 775.083.

49 (2) Any person who violates s. 668.603 commits a felony of
50 the third degree, punishable as provided in s. 775.082, s.
51 775.083, or s. 775.084, if:

52 (a) The volume of commercial electronic mail messages
53 transmitted by the person exceeds 10,000 attempted recipients in
54 any 24-hour period;

55 (b) The volume of commercial electronic mail messages
56 transmitted by the person exceeds 100,000 attempted recipients
57 in any 30-day period;

58 (c) The volume of commercial electronic mail messages
59 transmitted by the person exceeds 1 million attempted recipients
60 in any 1-year period;

61 (d) The revenue generated from a specific commercial
62 electronic mail message transmitted by the person exceeds
63 \$1,000;

64 (e) The total revenue generated from all commercial
65 electronic mail messages transmitted by the person to any
66 electronic mail message service provider or its subscribers
67 exceeds \$50,000;

68 (f) The person knowingly hires, employs, uses, or permits
69 any minor to assist in the transmission of a commercial
70 electronic mail message in violation of s. 668.603; or

71 (g) The person commits a violation otherwise punishable
72 under subsection (1) within a 5-year period after a previous
73 conviction under this section.

74 Section 4. This act shall take effect July 1, 2006, and
75 shall apply to violations committed on or after that date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0045

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Utilities & Telecommunications
Committee

Representative Porth offered the following:

Amendment (with title amendment)

Remove lines 23-25 and insert:

668.606 Civil remedies; service or equipment provider
immunity.--

(2) This part does not create a cause of action or provide
for criminal charges against an interactive computer service,
customer premise equipment provider,

===== T I T L E A M E N D M E N T =====

Remove line 4 and insert:

criminal liability for certain carriers and equipment
providers whose equipment

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0045

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Utilities & Telecommunications
Committee

Representative(s) Porth offered the following:

**Substitute Amendment for Amendment by Representative Porth
(with directory and title amendments)**

Remove line(s) 23-28 and insert:

668.606 Civil remedies; service provider immunity.--

(2) This part does not create a cause of action or provide
for criminal charges against an interactive computer service,
customer premise equipment provider, communications services
provider, telephone company, or cable provider whose equipment
is used to transport, handle, or retransmit a commercial
electronic mail message that violates s. 668.603.

===== T I T L E A M E N D M E N T =====

Remove line(s) 4 and insert:

criminal liability for certain carriers and equipment providers
whose equipment.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 249
SPONSOR(S): Jennings
TIED BILLS:

Florida 211 Network

IDEN./SIM. BILLS: CS/SB 156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Utilities & Telecommunications Committee</u>	_____	Cater <i>AC</i>	Holt <i>ASH</i>
2) <u>Health Care Appropriations Committee</u>	_____	_____	_____
3) <u>Commerce Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

House Bill 249 amends section 408.918, Florida Statutes, to expand the Florida 211 Network to provide services in each county. The bill revises legislative intent by adding the finding that a statewide Florida 211 Network would be of great benefit to Floridians, particularly in times of disaster. The bill requires each Florida 211 Network provider to coordinate with county emergency management agencies to determine how the 211 Network may be used in the event of a disaster.

The bill provides a \$5 million General Revenue appropriation to the Agency for Health Care Administration (Agency) for Fiscal Year 2006-2007 to support the statewide expansion of the Florida 211 Network to all counties and to enhance the operations of existing 211 providers. The bill directs the Agency to distribute the funds to the Florida Alliance of Information & Referral Services (Alliance). The Alliance is to make the funds available to 211 providers based on a formula developed by the Alliance and on a matching basis, with each 211 provider required to match \$1 for \$1 the amount that it is provided from the Alliance.

By December 15, 2006, 211 providers receiving state funds are required to report to the Alliance the expenditure of their funds. By January 1, 2007, the Alliance is required to provide a statewide report to the Agency. No later than February 15, 2007, the Agency is required to submit a statewide expenditure report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

This act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families-The bill provides for the expansion of the Florida 211 Network which provides community information and referral services. This expansion will assist more individuals and families in getting the assistance they need for a wide range of services.

Maintain Public Security-The bill requires 211 service providers to coordinate with county emergency management agencies to determine how the 211 Network may be used in the event of a disaster. In the event of a disaster, this may put less strain on emergency personnel.

B. EFFECT OF PROPOSED CHANGES:

Background

On July 21, 2000, the Federal Communications Commission (FCC) adopted Order No. FCC 00-256, in CC Docket No. 92-105, relating to the 211 dialing code. The FCC reserved the 211 dialing code for community information and referral services. The 211 code is intended to be an easy-to-remember and universally-recognizable number that would enable a critical connection between individuals and families in need and the appropriate community-based organizations and government agencies. Dialing 211 helps, for example, the elderly, the disabled, those who do not speak English, those who are having a personal crisis, the illiterate, or those who are new to communities, by providing referrals to and information about health and human services organizations and agencies.

In 2002, the Florida Health and Human Services Access Act (Act)¹ authorized the Agency for Health Care Administration (Agency) to develop a comprehensive, automated system for access to health care services. This system was to be implemented as a pilot project aimed at testing the feasibility of adopting a statewide 211 information and referral network capable of supporting the eligibility determination process required for publicly funded health care programs.

Section 408.918, Florida Statutes, further authorized the planning, development, and implementation of a statewide Florida 211 Network to serve as the single point of entry for information and referrals to publicly funded health and human service programs. The pilot project was scheduled to be completed on December 31, 2003, but it was terminated on June 30, 2003, because of loss of funding.

Under s. 408.918 (2), Florida Statutes, the Agency was required to develop criteria that organizations must satisfy to become certified Florida 211 Network providers. Previously, any organization could obtain a 211 number without meeting specific standards or qualifications.

Through certification, the Agency ensures that quality, consistent information and services are provided to those seeking health and human services across the state. Prior to receiving certification all candidates must be able to effectively demonstrate that their organization works collaboratively and have written agreements with specialized information and referral systems including crisis centers, child care resource and referral programs, elder help-lines, homeless coalitions, designated emergency management systems, 911 and 311² systems.

The Florida 211 Network Provider Certification Rule³ was adopted on April 28, 2003. The Agency has authorized, or is in the process of authorizing 12 organizations for certification as Florida 211 Network providers. Several other agencies have made official inquiries regarding the certification process.

¹ Ch. 2002-223, L.O.F., this act created ss. 408.911-408.918, F.S.

² The FCC has set aside 311 for non-emergency police and other governmental services.

³ S. 59G-11, F.A.C.

According to the United Way of Florida, 211 is currently available to more than 115 million people in 48 counties or about 84.5 percent of the state's population.

Currently, Florida's 211 providers receive funding from various sources. Funds may be provided through the United Way, county and local city governments, nonprofit agencies, corporations, grants, or private donations.

Proposed Changes

The bill amends s. 408.918, Florida Statutes, relating to the Florida 211 Network. The bill revises legislative intent by adding the finding that a statewide Florida 211 Network would be of great benefit to Floridians, particularly in times of disaster.

The bill creates section 408.918(3)(a) through section 408.918(3)(c), Florida Statutes. Paragraph (a) requires the Florida 211 Network to be expanded statewide to provide services in each county. Moreover, each 211 provider is required to coordinate with county emergency management agencies to determine how the 211 Network may be used in the event of a disaster.

To implement the Florida 211 Network business plan, paragraph (b) requires the Agency to distribute the funds to the Florida Alliance of Information & Referral Services (Alliance). The Alliance is to make the funds available to 211 providers based on a formula developed by the Alliance to ensure that all areas receive an equitable share of appropriated funds and on a matching basis, with each 211 provider being required to provide \$1 match for every \$1 provided by the Alliance. At a minimum, the funds are to be used to achieve statewide 211 coverage.

Paragraph (c) relates to reporting requirements. By December 15, 2006, each 211 provider that receives funding under this subsection is required to report to the Alliance its expenditure of funds on a form developed by the Agency. By January 1, 2007, the Alliance is required to provide a statewide report to the Agency, which includes the individual reports and aggregated data provided by the 211 providers. By February 15, 2007, the Agency is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the expenditure of the funds appropriated to it for 211 purposes.

The bill appropriates \$5 million for Fiscal Year 2006-2007 from the General Revenue Fund to the Agency for the statewide expansion of the Florida 211 Network to all counties and to enhance the operations of existing 211 providers.

This act shall take effect upon becoming law.

C. SECTION DIRECTORY:

- Section 1. Amends s. 408.918, F.S., revising legislative intent, providing for the expansion of the Florida 211 Network, and creating reporting requirements.
- Section 2. Provides an appropriation.
- Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None

2. Expenditures: FY 2005-06

Nonrecurring Expenditures

General Revenue Fund	<u>\$5,000,000</u>
Total Funds	\$5,000,000

The bill provides that the Agency will distribute the \$5 million from General Revenue to the Alliance to implement the statewide expansion of the Florida 211 Network and to enhance the existing 211 provider organizations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill expands the Florida 211 Network system, which provides an easy-to-remember and universally-recognizable number that would enable a critical connection between individuals and families in need with the appropriate community-based organizations and government agencies.

D. FISCAL COMMENTS:

The bill provides an appropriation of \$5 million from the General Revenue Fund to the Agency for Health Care Administration.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting

On lines 26 through 29, the bill indicates that 211 is currently available in 36 counties, representing 13.1 million people, or 77.5 percent of the state's population. According to the latest statistics from the United Way of Florida, 211 is currently available in 48 counties, representing 15.1 million people, or 84.5 percent of the state's population.

Comment

Agency for Health Care Administration

According to the Agency, with the passage of Medicaid Reform, Integrated Long Term Care, and other programs during the 2005 legislative session, existing Agency staff resources are currently preparing to implement major changes to the Medicaid program while continuing to operate the existing programs. Over the next few years, the Agency will be operating multiple systems that will continue to utilize all existing staff resources. As a result, the Agency currently has no staff resources to allocate to the additional workload that would be created to implement a statewide 211 provider certification.

In order to adequately administer and fully address the increased workload activities that the proposed legislation represents, the Agency believes that it needs three full time equivalent staff. The Agency is therefore requesting the following three full time equivalent positions:

- (1) *AHCA Administrator*. This will be a select exempt position. Serve as the Agency's representative on the FLAIRS Board, the 211 Subcommittee Coordinator for the Board, and the Agency's designated liaison to Alliance for Information and Referral Services (AIRS) which is the national organization for 211 accreditation. Additionally, this position will develop program-specific policies and procedures, develop statewide program and budget implementation plan, including the approval, distribution, and oversight of state allocated funds which will be provided to FLAIRS for statewide distribution, complete both national and state legislative bill analyses relating to 211 information and referral services, write annual reports and all other reports relating to Florida's 211 Provider System, and supervise the other two positions.
- (2) *Government Analyst II*. This position will be responsible for completing all activities relating to the Agency's certification of Florida's 211 Network Provider System. This will include initial certification of potential 211 provider organizations, re-certification of existing 211 Florida Network Providers, and the completion of onsite visits as required by the Florida 211 Network Provider Certification Rule (Chapter 59G-11, Florida Administrative Code). In addition this position will provide ongoing technical assistance to existing as well as potential Florida 211 Network Providers.
- (3) *Government Operations Consultant I*. This position is responsible for developing and implementing a statewide database and matrix of certification requirements which will include provider requirements, and specific activity time guidelines. This position will be also be responsible for maintaining all reports and will serve as a research coordinator completing state and national research activities.

The Agency estimates that the cost of these positions will be \$201,345 for the 2006-2007 fiscal year and \$193,515 for the 2007-2008 fiscal year, with 100 percent coming from General Revenue.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled

2 An act relating to the Florida 211 Network; amending s.
3 408.918, F.S.; requiring the Florida 211 Network to
4 provide services in each county and to coordinate services
5 with county emergency management agencies during
6 disasters; providing requirements for distribution of
7 state funds appropriated for such purposes; requiring
8 local matching funds; requiring expenditure reports to the
9 Florida Alliance of Information and Referral Services, the
10 Agency for Health Care Administration, the Governor, and
11 the Legislature; providing an appropriation; providing an
12 effective date.

13
14 WHEREAS, the 2002 Legislature created the "Florida Health
15 and Human Services Access Act" in ss. 408.911-408.918, Florida
16 Statutes, and

17 WHEREAS, the act "authorizes the planning, development,
18 and, subject to appropriations, the implementation of a
19 statewide Florida 211 Network, which shall serve as the single
20 point of coordination for information and referral for health
21 and human services" in s. 408.918(1), Florida Statutes, and

22 WHEREAS, in order to participate in the Florida 211
23 Network, a 211 provider must be certified by the Agency for
24 Health Care Administration under s. 408.918(2), Florida
25 Statutes, and

26 WHEREAS, 211 is the 911 telephone number for nonemergency
27 health and human services and for crisis response information,
28 is available in 36 counties, and represents 13.1 million people,

HB 249

2006

29 or 77.5 percent of the state's population, and

30 WHEREAS, the Florida Alliance of Information and Referral
31 Services is the statewide membership organization in which all
32 211 providers participate and which has drafted the Florida 211
33 Network business plan identifying the most efficient processes
34 by which the Florida 211 Network should expand statewide, and

35 WHEREAS, 211 providers, who answer 3 million telephone
36 inquiries about human services annually, have compiled
37 information on thousands of human services programs across the
38 state, and

39 WHEREAS, 211 call centers make it easier for 11 million
40 Floridians to get the information they need to keep them out of
41 emergency rooms, off government assistance, out of "deep-end"
42 social services programs, safe from abuse, and in stable
43 housing, and

44 WHEREAS, 211 call centers also help people find job
45 training and assistance, elder care and child care, and before-
46 school and after-school care that allow them to stay employed,
47 and

48 WHEREAS, during the 2004 hurricanes, 211 call centers
49 provided critically needed support to many emergency management
50 agencies, provided information to more than 100,000 Floridians
51 impacted by hurricanes, were instrumental in identifying unmet
52 and emerging needs, and helped mobilize and manage volunteers,
53 and

54 WHEREAS, 211 will continue to be a critical part of
55 recovery efforts, providing a connection to help for people
56 whose lives have been dramatically affected by the 2004

HB 249

2006

hurricanes, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 408.918, Florida Statutes, is amended to read:

408.918 Florida 211 Network; uniform certification requirements.--

(1) The Legislature finds that a statewide Florida 211 Network would be of great benefit to Floridians, particularly in times of disaster, and authorizes the planning, development, and, subject to appropriations, the implementation of a statewide Florida 211 Network, which shall serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the Florida 211 Network shall be to:

(a) Provide comprehensive and cost-effective access to health and human services information.

(b) Improve access to accurate information by simplifying and enhancing state and local health and human services information and referral systems and by fostering collaboration among information and referral systems.

(c) Electronically connect local information and referral systems to each other, to service providers, and to consumers of information and referral services.

(d) Establish and promote standards for data collection and for distributing information among state and local organizations.

85 (e) Promote the use of a common dialing access code and
86 the visibility and public awareness of the availability of
87 information and referral services.

88 (f) Provide a management and administrative structure to
89 support the Florida 211 Network and establish technical
90 assistance, training, and support programs for information and
91 referral-service programs.

92 (g) Test methods for integrating information and referral
93 services with local and state health and human services programs
94 and for consolidating and streamlining eligibility and case
95 management processes.

96 (h) Provide access to standardized, comprehensive data to
97 assist in identifying gaps and needs in health and human
98 services programs.

99 (i) Provide a unified systems plan with a developed
100 platform, taxonomy, and standards for data management and
101 access.

102 (2) In order to participate in the Florida 211 Network, a
103 211 provider must be certified by the Agency for Health Care
104 Administration. The agency shall develop criteria for
105 certification, as recommended by the Florida Alliance of
106 Information and Referral Services, and shall adopt the criteria
107 as administrative rules.

108 (a) If any provider of information and referral services
109 or other entity leases a 211 number from a local exchange
110 company and is not certified by the agency, the agency shall,
111 after consultation with the local exchange company and the
112 Public Service Commission, request that the Federal

HB 249

2006

113 Communications Commission direct the local exchange company to
114 revoke the use of the 211 number.

115 (b) The agency shall seek the assistance and guidance of
116 the Public Service Commission and the Federal Communications
117 Commission in resolving any disputes arising over jurisdiction
118 related to 211 numbers.

119 (3)(a) The Florida 211 Network shall be expanded statewide
120 to provide services in each county. Each 211 provider shall
121 coordinate with each county emergency management agency in the
122 211 service area to determine how the Florida 211 Network may be
123 used in the event of a disaster.

124 (b) To implement the Florida 211 Network business plan,
125 the agency shall distribute to the Florida Alliance of
126 Information and Referral Services funds appropriated to the
127 agency to expand the Florida 211 Network statewide and to
128 enhance operations of existing 211 providers. The funds
129 distributed to the Florida Alliance of Information and Referral
130 Services shall be made available to 211 providers based on a
131 formula developed by the Florida Alliance of Information and
132 Referral Services, which includes a disparity factor ensuring
133 that all areas of the state, urban and rural, receive an
134 equitable share of the state-appropriated funds, and on a
135 matching basis, with each 211 provider required to provide \$1
136 for each \$1 provided to that 211 provider from state funds
137 appropriated for that purpose. At a minimum, the funds shall be
138 used to achieve statewide coverage.

139 (c)1. No later than December 15, 2006, each 211 provider
140 that receives funding under this subsection shall report to the

HB 249

2006

141 Florida Alliance of Information and Referral Services the
142 expenditure of the state funds on a form developed by the
143 agency.

144 2. No later than January 1, 2007, the Florida Alliance of
145 Information and Referral Services shall provide a statewide
146 report to the agency that includes the individual reports and
147 aggregated data provided by the 211 providers.

148 3. No later than February 15, 2007, the agency shall
149 submit a report to the Governor, the President of the Senate,
150 and the Speaker of the House of Representatives detailing
151 expenditure of the funds appropriated to it for the purposes of
152 this subsection.

153 Section 2. The sum of \$5 million is appropriated for
154 fiscal year 2006-2007 from the General Revenue Fund to the
155 Agency for Health Care Administration to fund the statewide
156 expansion of the Florida 211 Network to all counties and to
157 enhance the operations of existing 211 providers pursuant to s.
158 408.918, Florida Statutes, as amended by this act.

159 Section 3. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0249

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Utilities & Telecommunications
Committee

Representative(s) Jennings offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:
Section 1. Section 408.918, Florida Statutes, is amended to
read:

408.918 Florida 211 Network; uniform certification
requirements.--

(1) The Legislature finds that a statewide Florida 211
Network would be of great benefit to Floridians, particularly in
times of disaster, and authorizes the planning, development,
and, subject to appropriations, the implementation of a
statewide Florida 211 Network, which shall serve as the single
point of coordination for information and referral for health
and human services. The objectives for establishing the Florida
211 Network shall be to:

(a) Provide comprehensive and cost-effective access to
health and human services information.

(b) Improve access to accurate information by simplifying
and enhancing state and local health and human services

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

23 information and referral systems and by fostering collaboration
24 among information and referral systems.

25 (c) Electronically connect local information and referral
26 systems to each other, to service providers, and to consumers of
27 information and referral services.

28 (d) Establish and promote standards for data collection
29 and for distributing information among state and local
30 organizations.

31 (e) Promote the use of a common dialing access code and
32 the visibility and public awareness of the availability of
33 information and referral services.

34 (f) Provide a management and administrative structure to
35 support the Florida 211 Network and establish technical
36 assistance, training, and support programs for information and
37 referral-service programs.

38 (g) Test methods for integrating information and referral
39 services with local and state health and human services programs
40 and for consolidating and streamlining eligibility and case
41 management processes.

42 (h) Provide access to standardized, comprehensive data to
43 assist in identifying gaps and needs in health and human
44 services programs.

45 (i) Provide a unified systems plan with a developed
46 platform, taxonomy, and standards for data management and
47 access.

48 (2) In order to participate in the Florida 211 Network, a
49 211 provider must be certified by the Agency for Health Care
50 Administration. The agency shall develop criteria for
51 certification, as recommended by the Florida Alliance of
52 Information and Referral Services, and shall adopt the criteria
53 as administrative rules.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

(a) If any provider of information and referral services or other entity leases a 211 number from a local exchange company and is not certified by the agency, the agency shall, after consultation with the local exchange company and the Public Service Commission, request that the Federal Communications Commission direct the local exchange company to revoke the use of the 211 number.

(b) The agency shall seek the assistance and guidance of the Public Service Commission and the Federal Communications Commission in resolving any disputes arising over jurisdiction related to 211 numbers.

(3)(a) The Florida 211 Network shall be expanded statewide to provide services in each county. Each 211 provider shall coordinate with each county emergency management agency in the 211 service area to determine how the Florida 211 Network may be used in the event of a disaster, including how a 211 provider will respond with information that is essential to assisting individuals during a natural disaster.

(b) To implement the Florida 211 Network business plan, the agency shall distribute to the Florida Alliance of Information and Referral Services funds appropriated to the agency to expand the Florida 211 Network statewide and to enhance operations of existing 211 providers. The funds distributed to the Florida Alliance of Information and Referral Services shall be made available to 211 providers on a matching basis, with each 211 provider required to provide \$1 for each \$1 provided to that 211 provider from state funds appropriated for that purpose. At a minimum, the funds shall be used to achieve statewide 211 coverage.

(c)1. No later than December 15, 2006, each 211 provider that receives funding under this subsection shall report to the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

85 Florida Alliance of Information and Referral Services the
86 expenditure of the state funds on a form developed by the
87 agency.

88 2. No later than January 1, 2007, the Florida Alliance of
89 Information and Referral Services shall provide a statewide
90 report to the agency which includes the individual reports and
91 aggregated data provided by the 211 providers.

92 3. No later than January 15, 2007, the agency shall
93 submit a report to the Governor, the President of the Senate,
94 and the Speaker of the House of Representatives detailing
95 expenditure of the funds appropriated to it for the purposes of
96 this subsection.

97 (4) As used in this section, the term "211 provider"
98 means an information and referral organization the primary
99 purpose of which is to maintain information about human service
100 resources in the community, supply descriptive information about
101 the agencies or organizations that offer services, and assist
102 consumers in accessing appropriate providers.

103 Section 2. The sum of \$5 million is appropriated for the
104 2006-2007 fiscal year from nonrecurring general revenue to the
105 Agency for Health Care Administration to fund the statewide
106 expansion of the Florida 211 Network to all counties and to
107 enhance the operations of existing 211 providers under s.
108 408.918, Florida Statutes, as amended by this act. Any funds
109 that are not encumbered for the 2006-2007 fiscal year shall
110 revert on June 30, 2007, and are reappropriated for the 2007-
111 2008 fiscal year for the same purposes.

112 Section 3. This act shall take effect upon becoming a law.
113
114

115 ===== T I T L E A M E N D M E N T =====

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to the Florida 211 Network; amending s. 408.918, F.S.; requiring the Florida 211 Network to provide services in each county and to coordinate services with county emergency management agencies during disasters; providing requirements for distribution of state funds appropriated for such purposes; requiring local matching funds; requiring expenditure reports to the Florida Alliance of Information and Referral Services, the Agency for Health Care Administration, and the Legislature; defining the term "211 provider"; providing an appropriation; providing an effective date.

WHEREAS, the 2002 Legislature created the "Florida Health and Human Services Access Act" in sections 408.911-408.918, Florida Statutes, and

WHEREAS, the act "authorizes the planning, development, and, subject to appropriations, the implementation of a statewide Florida 211 Network, which shall serve as the single point of coordination for information and referral for health and human services" in section 408.918(1), Florida Statutes, and

WHEREAS, in order to participate in the Florida 211 Network, a 211 provider must be certified by the Agency for Health Care Administration under section 408.918(2), Florida Statutes, and

WHEREAS, 211 is the 911 telephone number for nonemergency health and human services and for crisis response information, is available in 36 counties, and represents 13.1 million people, or 77.5 percent of the state's population, and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

147 WHEREAS, the Florida Alliance of Information and Referral
148 Services is the statewide membership organization in which all
149 211 providers participate and which has drafted the Florida 211
150 Network business plan identifying the most efficient processes
151 by which the Florida 211 Network should expand statewide, and

152 WHEREAS, 211 providers, who answer 3 million telephone
153 inquiries about human services annually, have compiled
154 information on thousands of human services programs across the
155 state, and

156 WHEREAS, 211 call centers make it easier for 11 million
157 Floridians to get the information they need to keep them out of
158 emergency rooms, off government assistance, out of "deep-end"
159 social services programs, safe from abuse, and in stable
160 housing, and

161 WHEREAS, 211 call centers also help people find job
162 training and assistance, elder care and child care, and before-
163 school and after-school care that allow them to stay employed,
164 and

165 WHEREAS, during the 2004 and 2005 hurricane seasons, 211
166 call centers provided critically needed support to many
167 emergency operations centers, provided information to
168 Floridians impacted by hurricanes, were instrumental in
169 identifying unmet and emerging needs, and helped mobilize and
170 manage volunteers, and

171 WHEREAS, 211 call centers will continue to be a critical
172 part of recovery efforts, providing a connection to help for
173 people whose lives have been dramatically affected by the 2005
174 hurricanes, NOW, THEREFORE,

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Utilities & Telecommunications
Committee Utilities & Telecommunications Committee
Representative(s) Jennings offered the following:

Amendment to Amendment (1) by Representative Jennings

Remove line(s) 145-156 and insert:

is available in 42 counties, and represents 14.7 million people,
or 82.5 percent of the state's population, and

WHEREAS, the Florida Alliance of Information and Referral
Services is the statewide membership organization in which all
211 providers participate and which has drafted the Florida 211
Network business plan identifying the most efficient processes
by which the Florida 211 Network should expand statewide, and

WHEREAS, 211 providers have compiled information on thousands of
human services programs across the state, and

WHEREAS, 211 call centers make it easier for more than 14
million

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Utilities & Telecommunications
Committee

Representative(s) Jennings offered the following:

Amendment to Amendment (1) by Representative Jennings

Delete line(s) 24 and insert:

among information and referral systems-, including those serving
persons with disabilities and special health care needs.